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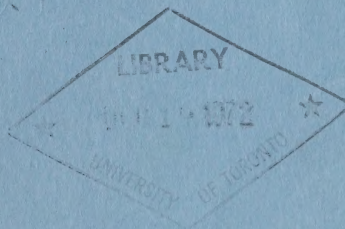
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Legislative Assembly

REPORT OF THE SELECT COMMITTEE
ON THE
ONTARIO MUNICIPAL BOARD
1972



TABLED IN THE LEGISLATIVE ASSEMBLY BY
THE CHAIRMAN OF THE COMMITTEE
JOHN P. MACBETH, Q.C., M.P.P.

2nd Session 29th Legislature
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REPORT OF THE SELECT COMMITTEE
ON THE
ONTARIO MUNICIPAL BOARD

November 21, 1972

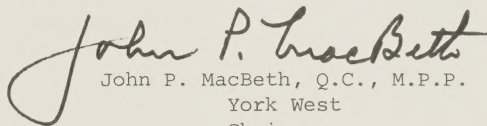


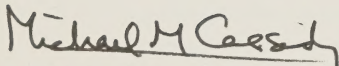
TO:

The Honourable Allan E. Reuter,
Speaker of the Legislative Assembly of the Province of Ontario

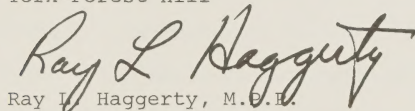
Sir,

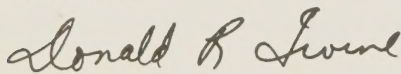
We, the undersigned members of the Committee appointed by the Legislative Assembly of the Province of Ontario on June 30th, 1972 to examine, inquire into and report upon the Ontario Municipal Board in accordance with the terms of reference established and to complete its work with the intention that it submit its Report on or before the 31st day of October, 1972, have the honour to submit the attached Report.

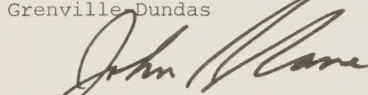

John P. MacBeth, Q.C., M.P.P.
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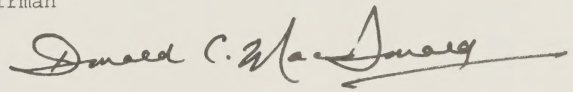

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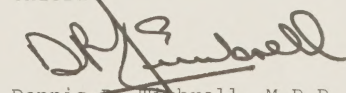

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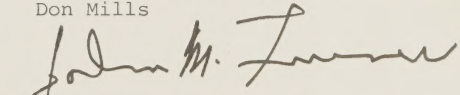

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Peterborough



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MEMBERS OF THE SELECT COMMITTEE ON THE ONTARIO MUNICIPAL BOARD

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Michael Cassidy, M.P.P.	Ottawa Centre
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Ray L. Haggerty, M.P.P.	Welland South
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John G. Lane, M.P.P.	Algoma-Manitoulin
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Alexander McFedries	Clerk of Committee
Hal Tennant	Editor
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Eileen T. Stephenson	Secretary of Committee

TERMS OF REFERENCE

ORDERED, That a Select Committee of this House be appointed to examine, inquire into and report upon the Ontario Municipal Board, and without limiting the generality of the foregoing, to make recommendations on:

- (a) the purpose, object and functions of the Ontario Municipal Board.
- (b) the jurisdiction of the Ontario Municipal Board.
- (c) the structure and organization of the Ontario Municipal Board.
- (d) the procedures and practices of the Ontario Municipal Board.
- (e) the procedures by way of appeal from the orders and rulings of the Ontario Municipal Board, including appeals by way of petitions to the Lieutenant Governor in Council.
- (f) the relationship of the Ontario Municipal Board in the discharge of its responsibilities with the Provincial Government, local government and the individual citizen.

And that the Select Committee shall have authority to sit during recesses and the interval between Sessions, and have full power and authority to employ such personnel as may be deemed advisable and to call for persons, papers and things, and to examine witnesses under oath, and the Assembly doth command and compel attendance before the said Select Committee of such persons and the production of such papers and things as the Committee may deem necessary for any of its proceedings and deliberations, for which purpose the Honourable the Speaker may issue his warrant or warrants; and it is the intention of this House that the Committee shall complete its work and submit its Report on or before the 31st day of October, 1972.

And that the said Committee be composed of eleven Members, as follows:—

Mr. MacBeth (Chairman), Messrs. Cassidy, Givens, Haggerty, Irvine, Lane, MacDonald, Miller, Parrott, Timbrell and Turner.

ACKNOWLEDGEMENTS

The Committee has enjoyed the work of conducting this review of the Ontario Municipal Board.

The public, aware of the Board's influence on their daily lives, has taken a participatory interest in our study. We have had the full co-operation of all from whom we sought assistance.

The Legislature imposed a completion date upon us. Often we were tempted to depart from the strict terms of our reference to investigate many problems which testimony revealed in such fields as Planning. Time restrained us.

Throughout our Report we frequently refer to matters requiring further study and investigation. We believe and recommend that the Legislature should appoint a Committee to pursue these studies.

We acknowledge and express our appreciation for the help we received from beyond our Province and mention particularly the advice and wisdom of private citizens and government officials in the Provinces of British Columbia and Manitoba.

The Committee has been served by a dedicated, industrious and experienced staff whose names are set out on Page ii. It was their tact, skill and patience that helped to rationalize the varied philosophies of the members and brought accord to our recommendations.

A NOTE ABOUT NOMENCLATURE

Some readers of this Report who are not members of the Legislature may be puzzled by the frequent mention in these pages of the Ministry of Treasury, Economics and Intergovernmental Affairs and the complete absence of any mention of the Department of Municipal Affairs. These readers are reminded that with the reorganization of government early in 1972, the Department of Treasury and Economics was merged, substantially, with the Department of Municipal Affairs to become the Ministry of Treasury, Economics and Intergovernmental Affairs, with responsibility for relations with the municipalities.

Readers are also reminded that, with reorganization, the term "Community Planning Branch"—still often heard in discussions of municipal affairs—is also obsolete, having given way to the Plans Administration Branch, which is part of the Ministry's Municipal Services Division.

The head of the Ministry, incidentally, is properly known as Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs. However, he is also frequently referred to as simply "the Treasurer" or "the Minister," and the latter term is used in this Report.

Finally, the abbreviation "OMB" and the term "the Board" are used synonymously throughout this Report to mean the Ontario Municipal Board.

Background

THE ONTARIO MUNICIPAL BOARD

The legislative roots of the Ontario Municipal Board (OMB) go back to 1897, when the office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities and school boards. The auditor was empowered to inspect and audit the books of account of the various municipal corporations.

The Ontario Railway and Municipal Board Act, passed in 1906, created a board of the same name. This board was made up of three persons appointed by the Lieutenant Governor in Council, and they held office during pleasure.

In 1917, The Bureau of Municipal Affairs Act was passed, and the bureau it created (as a branch of the Public Service of Ontario) supervised the accounts of schools and public utilities, issued bulletins to guide municipal administrations toward greater efficiency and economy, and collected statistical and other information from the municipalities.

The Ontario Municipal Board Act, passed in 1932, created the present OMB. Its passage effected repeal of The Railway and Municipal Board Act (many of whose provisions it incorporated), The Municipal and School Accounts Audit Act, and The Bureau of Municipal Affairs Act.

Today the OMB retains most of the powers bestowed upon it in 1932. Its main functions are to hear appeals under The Assessment Act, to hear applications for approval of zoning by-laws and official plans, to supervise some of the financial and other affairs of local municipalities, and to issue orders creating, altering or dissolving municipalities.

The OMB at present consists of 15 members (Appendix A). At the time this Committee was convened, the chairman of the OMB was Mr. J. A. Kennedy, Q.C. He has since retired and been succeeded by Mr. W. H. Palmer.

APPOINTMENT AND PROCEDURE OF THE COMMITTEE

The Committee was appointed on June 30, 1972. Soon after, it advertised for briefs relating to the subject of its inquiry, then held public hearings in Thunder Bay, Sault Ste. Marie, Sudbury, London, Niagara Falls, Ottawa and Toronto. At these hearings submissions were heard from many who had submitted briefs and from many others who were invited because of their special knowledge of fields related to the work of the Ontario Municipal Board (OMB). As well, the Committee heard many submissions from persons who attended the meetings on their own initiative and presented their views.

Among those who appeared were representatives of municipalities, community associations, professional bodies, municipal associations, and individuals with a wide variety of interests. The Committee was also privileged to receive the views of the chairman (now former chairman) of the OMB, and those of the Court of Appeal of Ontario and the chairman of the Assessment Review Court.

The Committee was most encouraged by the high degree of interest these people displayed in its work, as evidenced by 231 written submissions (Appendix B) and 141 oral submissions (Appendix C). Both types of presentations, including those from members of the OMB itself, contained many specific and useful suggestions for improving the Board's functions and practices.

To see how other jurisdictions deal with the same sort of matters that concern the OMB, the Committee visited Manitoba and British Columbia. In both provinces it conferred with government officials, municipal representatives, community groups and professional people. Manitoba was chosen because it has a municipal board that functions somewhat like the OMB; British Columbia because it functions without any body comparable to the OMB.

The written briefs and other opinions and information received by the Committee were extremely helpful in assisting the Committee in its work.

GENERAL OBSERVATIONS AND CONCLUSIONS

While the Committee set out to consider all functions of the OMB, it concentrated on the four main areas of the Board's work: planning, capital expenditure, assessment appeals and municipal organization.

In the estimation of the former Chairman of the OMB, planning occupies about 85 per cent of the Board's hearing time and about 50 per cent of its administrative time, while capital expenditure occupies almost all the rest of its time.

In theory, the Board has many other powers and functions. The most extensive list of these now available appears on page 2045 of Report No. 3, Volume 5 of the Royal Commission Enquiry into Civil Rights (The McRuer Report). However, many of these powers have not been used and many of the functions have not been operative. Some representatives of large municipalities, questioned by the Committee, could not recall any occasion their municipality had made use of any of these other functions. In any case, The McRuer Report states that its own list may not be complete. Indeed, the OMB's Chairman (now former chairman) told the Committee he is not entirely sure what the Board's full terms of reference and authority are. His uncertainty is understandable. Many inconsistencies are to be found in The Ontario Municipal Board Act and other relevant statutes, and the result is a considerable lack of uniformity and clarity. For instance, section 182(11) of The Municipality of Metropolitan Toronto Act which purports to give certain powers to the OMB has been held *ultra vires* by the courts.

Some of the OMB's powers and functions (such as those provided under The Drainage Act) are being reviewed by others. Such a piecemeal approach, however, will not solve the whole problem.

The Committee therefore makes these recommendations:

- I **A All functions of the OMB and all legislation relating to its role should be catalogued.**
- B All functions not dealt with specifically in this Report should be reviewed in detail, with the object of determining whether each power and function should be left with the OMB, transferred to some other body, or abolished.**

In the briefs submitted and in its hearings and interviews, the Committee found strong support, among municipalities and the public at large, for the work of the OMB. On the other hand, there were also strong criticisms of the Board's procedural practices. A frequent complaint concerned the delays occurring in matters that come before the Board.

A basic question explored by the Committee was this: What role, if any, should an appointed body such as the OMB play in the process of legislative decision-making?

In matters of finance and planning, the Legislature has delegated some of its legislative powers to the elected municipal councils, thus empowering them to enact by-laws. It has meanwhile retained a degree of control by the Provincial Government by providing that many of these by-laws cannot become effective without the approval of an appointed body (i.e. the OMB). (This appointed body is not directly responsible to the people and may interject its own views on what the municipal legislation should be. An OMB decision can be appealed to the Lieutenant Governor in Council. In practice, however, most matters stop at the Board level.

This is an important question because the OMB can thus shape or control matters of much greater breadth and magnitude than those dealt with by the courts. Furthermore, the courts are obliged to decide cases in strict accordance with the law, while the OMB decides cases within much broader terms of reference. Its decisions are based on government policy, where known, but otherwise on its own policy formulated according to its interpretation of the facts and the sentiments of people.

Out of this situation another question naturally arose: Should the OMB remain an independent tribunal, as it now is, or should it be made an agency of the Ministry of Treasury, Economics and Intergovernmental Affairs? The Committee heard strong arguments on both sides.

If it were responsible to the Ministry, the OMB could serve as the Ministry's hearing body and report its findings to the Minister. The Minister would then make the decisions now being made by the OMB. Such a procedure has some precedent, for instance, under The Pits and Quarries Control Act.

Under such an arrangement matters of government policy, such as housing, could be dealt with by an elected body (represented by the Minister); an appointed body would no longer be in the position of trying to apply policy that is not always fully spelled out. Whenever it attempts to apply government policy, an appointed body runs two serious risks. First, it may misinterpret policy and thus give approval, or refuse approval, to an application or request, without having to bear any responsibility for the consequences of its decision. A second risk is that the appointed body may gradually alter its interpretations of government policy even while continuing to observe the same basic principles. This appears to have happened with the OMB.

As an alternative to making the OMB responsible to the Ministry, another suggestion was made for avoiding the present situation whereby an appointed body (i.e. the OMB) is able to overrule an elected body (i.e. a municipal council). Under this suggestion the OMB would follow the same procedures as are followed in matters of expropriation. A council intending to enact a certain by-law would have to give notice of intent. The OMB would then act as a body of inquiry, reporting its findings back to council and leaving council to make the decision. This system would have the advantage of providing a forum through which there would be ample time and opportunity for all citizens to present facts and opinions in detail.

Such a system could be both valid and practicable but on balance the Committee prefers to retain the appeal powers of the OMB, subject to the changes recommended in this Report. The Committee recommends:

II The OMB should continue as an independent appeal tribunal to review municipal legislation, subject to the changes recommended in this Report.

However, the Committee does find it inconsistent that citizens have considerable rights to be heard and to appeal municipal decisions but do not have comparable rights when provincial and federal proposals may have equally substantial effects on their community. The Committee therefore recommends:

III The OMB's jurisdiction should be expanded so that whenever any government proposes a project likely to affect a community, the Board is available, at the Government's request, to review the proposal at public hearings and make recommendations to the Provincial Government.

Whether the OMB should be made an agency of a ministry or continued on its own is not a question that can be answered until an even more basic question is resolved. Therefore, this Committee believes:

IV The OMB should remain an independent tribunal. However, the Government should conduct a broad study of the relationship between elected bodies and provincial boards, agencies and commissions.

As long as the OMB continues to operate within its present framework, much could be done—and, in this Committee's opinion, *should* be done—to improve the decision-making of local councils, thereby avoiding many applications to the Board.

It is almost axiomatic that any decision made for the common good will adversely affect the rights of some minority or some individual. The Committee is convinced that municipal councils generally consider minority rights in the course of arriving at decisions for the greatest common good. Some councils, however, have acted without sufficient information or without giving adequate notice to those concerned. For this reason, the Committee believes that all possible steps should be taken to make it a routine practice for all councils to provide wide public notice of proposals they intend to consider and to hold public hearings on contentious issues.

The conduct of municipal councils is, admittedly, not directly within this Committee's terms of reference, but the failure of some councils to observe this principle of citizen participation has given rise to many more applications to the OMB than might otherwise occur. Some applications arise because the objecting citizens do not fully understand an issue or the council's reasons for dealing with it in a certain way. More commonly, objections are lodged with the OMB because the objectors simply feel that their views were not taken fully into account. Fuller citizen participation would help immeasurably to reduce the number of objections on both grounds.

Some witnesses argued that the OMB's present review procedure is a necessary safeguard against corruption in municipal councils. Corruption is a matter of law enforcement under the Criminal Code and not a primary concern of the OMB.

Other testimony indicated that so-called corruption is more likely to be a matter of persons in the community unduly influencing a council to make decisions in their favour. If and when such influence is brought to bear, the OMB can play a valuable part in making sure that the public interest has not been subverted.

Even if citizen participation became routine in all municipalities, some appeals to the OMB would, of course, still ensue, and to that extent the Board should continue this most useful aspect of its work, subject to the specific comments elsewhere in this Report.

This Committee's views on the natural justice of citizen participation in local decision-making are substantiated by a recent decision by the Divisional Court of the Supreme Court of Ontario. In the case of Zadrevac and the Town of Brampton, June 26, 1972, the Divisional Court ruled that natural justice required a municipal council to give notice and hold a hearing over a matter affecting the rights of ratepayers. Finding

that such notice had not been given and a proper hearing had not been held, the Court declared the by-laws in question to be void.

This case is now on appeal to the Court of Appeal of Ontario, but the Committee recommends that regardless of the results of that appeal:

- V. Amendments should be made in the appropriate statute to require all municipalities to involve the public in local decision-making by these means:**
- A. Before a council finally determines an issue involving planning or capital expenditure its intention to do so should be made known in a public notice written in plain language.**
 - B. At the same time the municipality should release all relevant information and reports.**
 - C. Before the issue is voted on, ratepayers should have a full opportunity not only to present their views but also to obtain full information from the municipality at a public hearing.**

The Ministry could further these aims by drafting standard notices for uniform use throughout the province. Satisfactory methods of giving notice would include letters mailed to owners and tenants affected by the proposal, advertising in newspapers, and notices posted in public places. There is precedent for part of this procedure in present legislation relating to the opening and closing of public highways.

The Committee believes that in large urban municipalities part of the citizen participation process could take place in community meetings at which municipal staff members, as well as elected representatives, would be present to answer questions.

The procedures applicable to the various functions of the OMB are dealt with in the relevant chapters on each function.

The Committee is satisfied that the OMB tries to follow government policy in making its decisions. However, in at least two types of cases the OMB obviously makes policy. One type occurs when there is no clear statement of government policy. A second occurs when the Board has only a generalized government policy to guide it and feels obliged to make detailed policy applicable to the issues before it.

The Committee believes that the Government should undertake to set out clear policy statements about every matter likely to come before the OMB, and that whenever the Board is uncertain as to what the government policy is it should have the right to ask the appropriate ministry for a clear policy statement, either for use in a particular case or for future reference.

At the present time policy may be stated in any of several ways—by acts of the Legislature, orders-in-council, regulations, statements by ministers in the House, public statements by ministers outside the House, correspondence and perhaps other methods.

In planning matters policy is sometimes contained in statutes; for instance, there is a section of The Planning Act spelling out the considerations the Minister must take into account in dealing with a plan of subdivision. Planning policy is also set out in official plans and in formal statements such as Design for Development. On the other hand, the Board cannot be sure whether certain statements made in other forms are government policy (and therefore binding on it) or not. For example, when an official plan has been approved by the Minister without a public hearing, the Board has sometimes taken the view that the plan is not a statement of government policy but merely a statement of municipal policy and therefore not binding on the Board.

For this and other reasons the Committee believes that the Government should adopt clear-cut methods of stating its policies, so that not only the OMB but all interested persons can be fully aware of policy applying to any issue likely to come before the OMB. The Committee therefore believes that:

- VI. The Government, through regulations or official policy statements, should clearly state the policies it expects the OMB to follow. Such declarations should be issued routinely to the Board, to all municipalities and to the public at large. Where policy is not clear the Board should ask for clarification.**

It is impossible for the OMB to avoid policy-making of the second type—that is in cases when it must interpret a generalized government policy and apply it to a given set of details. The solution would seem to lie not in trying to avoid this form of policy-making but in making sure that the resulting policies are conveyed clearly to the municipalities and the public. To achieve this aim, the Committee believes that:

VII. The OMB's decisions should be edited concisely and published regularly.

At least two attempts have been made in the past to publish the Board's decisions, but both failed for various reasons. The Board now makes all its decisions available to many universities and libraries. However, these are not issued in edited form, and they are so voluminous and cumbersome that they are virtually useless.

The Committee suggests that the Ministry of the Attorney General could be responsible for appointing an editor and publishing the Board's decisions in concise form. Publication could be handled either by some government branch or by an outside firm. If publication cannot be maintained without a subsidy, the Government should provide one.

Publication of OMB decisions seems especially important in view of the wide and imprecise nature of the issues the Board must decide. Since the OMB is an administrative tribunal and not a court, the Committee recommends that:

VIII. Unlike a court, the OMB should not be rigidly bound by its own previous decisions but should attempt to follow a consistent policy.

In other words, the OMB should not always be bound by *stare decisis*—that is, by the legal principle that decisions in previous cases must be followed when the facts are comparable. Instead, the Board should be free, within the broad framework of government policy, to make a decision that may seem (or even be) contrary to one of its earlier decisions, if the new decision seems appropriate in the circumstances.

Such power need not be a source of confusion among municipalities or the public as long as the OMB's decisions are published in a meaningful form. Indeed, such publication would help the Board's 15 members to establish a uniform attitude toward the applications they are assigned to hear. At the same time it would help municipalities understand the policies of the Government and the Board even before local decisions are made. One result would be to reduce the number of applications to the OMB.

Publication of OMB decisions would also be of great help to the Government whenever it wanted to review the Board's approach to various matters. The Government would thus be better equipped to confirm or change the Board's approach, by issuing a new regulation or a ministerial statement of policy.

The Committee received numerous suggestions to the effect that regional and other large municipalities should not be subject to the same legislative requirements and procedures as small municipalities, particularly in matters of finance and planning. It was argued that the larger municipalities, having highly qualified staffs and professional competence, require less provincial assistance and control than smaller municipalities. The Committee believes there is much merit in this suggestion and later in this Report makes a recommendation to this effect in regard to financial matters. The Committee believes as well that the idea should be studied further and applied, if possible, to municipal planning.

It was also suggested to the Committee that assistance, financial and otherwise, should be given to community groups to help them in considering proposals made by their municipal councils and in debating their councils' decisions before the OMB. Since most ratepayers have some financial means, they do not qualify for legal aid. At the same time, few can afford the costs of investigating or opposing local proposals, since such costs can be very high. The Committee believes that some form of assistance should be given to ratepayers' groups and individuals to help them bear the expense of appeals to the OMB. This is not an entirely new idea. Some municipalities have provided financial assistance in specific cases, and the City of Vancouver has established a department to help ratepayers and communities in this way.

Careful study will be necessary to determine the best way of providing such help. It should not be so wide that several separate groups receive money to explore or oppose the same issue. Nor should it be so comprehensive as to encourage frivolous appeals or prolong hearings merely because the appellant is not bearing any of the costs. Short of these extremes there are many legitimate cases where assistance would make possible a fair and complete hearing that otherwise might not take place. This assistance might be given through the Crown Attorney's Branch or through legal aid. The Attorney General should be asked to work out the best method. Recommendation:

IX. The Government should endorse the principle of helping ratepayers and others who want to study their councils' proposals and perhaps appeal to the OMB. The Attorney General should be asked to devise the most suitable scheme.

The Committee, also believing that municipalities themselves should promote citizen participation, also recommends that:

X. The Government and the OMB should encourage municipalities to find ways of assisting community groups to take part in local decision-making.

ADMINISTRATION OF THE OMB

The OMB is a tribunal—but what kind? Usually it is administrative; sometimes it is judicial; but always it must be judicious.

Because the Board must conduct itself differently according to the type of case it is hearing, confusion arises over its method of procedure.

The Board has adopted the adversary system, which suits judicial hearings but may be too formal for administrative hearings. Two questions arise:

Should the Board consider matters other than those brought out in evidence before it?

Should witnesses be cross-examined?

After exploring the first question with many knowledgeable persons, the Committee was convinced that, except when the Board is acting judicially, as in assessment cases, it should not be bound entirely by the evidence it hears. Rather, it should be free to ponder other considerations and make its decisions in the broader context of the public good. Because of varying practices by the Board the Committee recommends that:

XI. The Board should make a practice of accepting reports and other written material without insisting on the author giving oral evidence.

However, such authors (including officials of the various ministries) should be available (after adequate notice) for examination before the Board if the Board requires their presence. The greater use of preliminary hearings (referred to later) should help this process.

The Committee also heard much expert and lay opinion about cross-examination, which apparently frightens many laymen. Some believe that the whole adversary system gives lawyers an advantage over other citizens. Both observations have substance, but the system seems as fair as any that could be used. The Committee recommends:

XII. The OMB should retain the adversary system but conduct its hearings in an informal manner.

Part of the intent of this recommendation is to make sure that witnesses do not feel harassed and that laymen concerned with the hearing are able to get help from the Board in cross-examining professional witnesses.

Should OMB hearings be recorded in shorthand or other means? While recording would be helpful, the Committee can see some serious drawbacks. One is that the act of recording might tend to formalize the hearings unduly. Another is the practical consideration of volume. As a compromise, the Committee suggests that recording be left to the Board's discretion, but that the Board should be obliged to have a hearing recorded if an interested person requests it. The question of costs should continue to be at the Board's discretion.

All reports that come before the Board or are in the Board's files are public documents. Unfortunately many people do not realize this. The Board should make this fact clear at hearings and on preliminary motions and should emphasize it also in the pamphlet or information sheet recommended later in this report.

Many municipalities and citizens have been irritated by the amount of time the OMB typically takes to handle and resolve an application. In the processing of a matter, delays can (and often do) occur at three points—at the municipal level (before and after an application has gone to the OMB); at the OMB; and in other bodies to which a matter has been referred (e.g. a regional government or the Ministry of Treasury, Economics and Intergovernmental Affairs).

Only the last two points of delay fall within this Committee's terms of reference. However, the Board's effectiveness is inescapably bound up with the workings of the municipalities, and, as this Report indicates in later chapters on planning and finance, the Board must have its powers and functions clearly set out, with the aim of processing municipal matters fairly and effectively. Specific proposals for appropriate changes in legislation are recommended in those chapters.

The Committee has not had time to concern itself with all the internal mechanisms of the OMB's administration, which in any case have already been studied by a government management team. This team made recommendations, some of which have been implemented, while others probably will be after further study. The Board itself is also making improvements of its own. For these reasons, the Committee concentrated on problems that are more obvious to the public because of the delays or other irritations they cause. Delays of course irritate everyone concerned, but they are especially frustrating in Northern Ontario because the building season there is so short.

Most delays at the OMB can be traced to one or more of three causes: present legislative requirements, the heavy volume of applications, and the failure of municipalities and the Board itself to use certain available procedures that would save time and paperwork.

There are two general sections of The Ontario Municipal Board Act that give the Board authority to overrule elected bodies, meanwhile causing it to engage in lengthy hearings. These are sections 62 and 68 (Appendix D), which require the Board to investigate an application thoroughly and to weigh its necessity and expedience: the Board must be satisfied that the application is justified in all circumstances before it can grant its approval.

In other words, whenever it is faced with an application, the Board must start from scratch, so to speak, and explore all the ramifications of an application, almost as though nobody had even considered the pros and cons until then. The Board is not free—as this Committee believes it should be—to treat the application as if it were an appeal from a council decision.

In the past the Board, in trying to operate as an appellant review body, has declared its duty to be to review the way in which elected councils have exercised their discretion. The Board stated this policy as follows: The OMB should not interfere with the decision of council unless the Board was satisfied that the council's action was clearly not for the greatest common good, that it created an undue hardship, that some private right was unduly interfered with or denied or that it had acted arbitrarily on incorrect information or advice, or otherwise improperly. The Committee agrees with this statement of policy and believes that the Board should follow it at the present time.

In the case of *Re Hopedale Developments Limited and the Town of Oakville (1964) Ontario Regulation 259*, dealing with section 35 (22), of The Planning Act, the court has decided that the Board must hold an entirely new hearing and make its own decision even though it may be guided by policy statements. Since that decision is in accord with the requirements of sections 62 and 68 of The Ontario Municipal Board Act and since the decision, the Board has made a full and complete investigation of all matters brought before it, Mr. Kennedy (the former chairman) advised the Committee that he did not believe that the Board should be required to review matters to the extent that it is now required and the Committee shares this belief.

The recommendations in this Report relating to procedures at council meetings should ensure that a full and complete investigation will be made at the council level where the basic policy decision should be made.

There should no longer be the necessity of such full hearings at the OMB and therefore, the Board should consider all objections brought before it as appeals from the council's decision. It should accept documents and reports that are not questioned and should not require approvals or certificates from other governmental bodies over which it has no jurisdiction. In this manner, the hearings before the Board should be considerably shortened.

However, if the hearing is to be an appeal, the clerk of the municipality must be required to keep a list of all documents presented to, and persons heard by, the council and to present this information and a brief history of the matter to the Board. The Committee therefore makes this recommendation:

XIII. Amendments should be made to The Ontario Municipal Board Act and The Planning Act to make it clear that an objection or an appeal to the OMB will be treated as an appeal and not as a hearing *de novo* (i.e. a full new enquiry).

Removal of those sections would make it unnecessary for the OMB to investigate or interfere with a council's decision except for reasonable cause. This change in the role of the Board, coupled with the procedural changes suggested in this Report, should mean fewer matters going to the Board for decision since many issues would be settled at the municipal level. It should also shorten and simplify hearings as the Board would only be considering those aspects of matters that are still in dispute after municipal councils have debated them.

Numerous witnesses have told the Committee of instances where the Board's work in relation to planning and financial matters was delayed by persons who flagrantly abused the process. Typically, a person, who has no substantial objection, has lodged an objection to a by-law enacted by his municipal council, knowing that his objection would delay the matter for several months. Subsequently, the Board has sent members to the municipality to hear the application. In preparation for the hearing, the municipality would prepare its case, going to considerable pains and expense to assemble its evidence and line up its witnesses. Then, when time came for the hearing, the objector simply failed to appear.

In most instances of this sort, the by-law has eventually been approved, but only after extensive cost and inconvenience to the municipality and the Board. Sometimes other costs are incurred as well—such as the costs that arise from delaying a construction project; indeed, several months' delay can mean that a construction project must be abandoned, even though the Board has approved it.

The Board has power to award costs in such cases and has done so, though never against a ratepayer or a community group. The question of awarding costs is a delicate one and the Committee believes that the present Legislation, which enables the Board to exercise this power at its own discretion, should be retained.

However, the Committee believes that the OMB should levy a penalty against objectors who fail to appear at its hearings without reasonable excuse. This should not apply to preliminary hearings.

To overcome delays caused by frivolous or irrelevant objections, the Board has other powers it could—and should—use. Like the Supreme Court of Ontario, the OMB has the power to entertain procedural motions, but it seldom uses this power. It does use them to deal with directions on major applications relating to municipal structure or, in some cases, to major planning and financial matters. But this power is rarely used to question the validity of an objection. By entertaining such a motion at the outset of an application, the Board would, in effect, be conducting a preliminary hearing. Most frivolous or irrelevant objections would end right there and fewer of these would reach the Board since objectors with frivolous cases, intent only on delay, would soon realize that such attempts at obstruction were futile.

Such preliminary hearings could be initiated by the Board itself or by any party. The Committee recommends that the OMB assign one of its members to be available to hold preliminary hearings of applications on one designated day of every week, in Toronto. Applications would be heard on the scheduled day, after notice to the parties involved. Similar, but perhaps less frequent, service throughout the rest of the Province should also be provided. The Committee makes this recommendation:

XIV. The OMB should hold preliminary hearings regularly in Toronto and in various other centres throughout the Province.

These preliminary hearings should also be used, where necessary, for the Board to order the production of documents or other information and to make other procedural motions necessary to expedite the full hearing.

The idea of establishing OMB offices in various parts of the Province was suggested to the Committee in numerous representations. Some petitioners also thought that Board members ought to become resident in various parts of the Province, so as to be readily available for hearings. The Committee believes that with the latter arrangement Board members might appear to become too subjective or too 'local' in their attitude and decisions; the present objectivity of the Board is invaluable and should be carefully preserved. Furthermore, the Committee believes that if certain of its recommendations are adopted, the Board and the public will no longer be subjected to the delays they have experienced in the past and the motive for proposing local offices or local members will disappear.

This view, however, does not mean that the OMB could not improve its municipal and public relations by keeping people better aware of its day-to-day affairs. With this end in mind, the Committee makes this recommendation:

XV. The OMB should set up information centres in many parts of the Province. Branch offices of the Ministry of Treasury, Economics and Intergovernmental Affairs, or of other ministries, could be used for this purpose.

While the Board is held in high public esteem for the conduct of its hearings and the calibre of its decisions, it should continue to review and attempt to improve the public relations of its administrative work.

In dealing with applications, the Board has two functions. One is to conduct a hearing and reach a decision. But before that, it has another function—receiving and processing the application to prepare it for the hearing.

Recently, the Board designated one of its vice-chairmen as head of administration. This was a commendable appointment but his duties should be more widely publicized so that the appropriate inquiries will automatically go directly to him or his staff and not through the hands of the Chairman or some other member. The Committee would like to see this development a step further:

XVI. The OMB should establish an Administrative Branch separate from its hearing branch.

This branch would not only deal with preliminary work on an application but would be available to discuss the Board's policies and practices with municipal representatives and the public in general. The branch could also help the OMB overcome some deficiencies cited earlier:

XVII. The OMB's Administrative Branch, once established, should publish a brochure spelling out, in plain language, exactly what the Board's functions, powers and procedures are.

This material should be distributed to municipalities, community groups and the general public.

From municipalities, the Committee has heard much concern expressed over their lack of understanding as to exactly what material the Board requires when an application is being filed. Not all the blame for this confusion can be laid at the OMB's doorstep, for the Board has prepared and distributed procedural memo-

randa, which the municipalities could have heeded. However, these memoranda could perhaps have been clearer and easier to follow. The Board should review its whole range of communications with municipalities, other applicants and the public. The Committee therefore makes this recommendation:

XVIII. The OMB should rewrite its procedural memoranda and prepare application forms, standard public notices, by-laws and other such material, all in everyday language. When formal language is required for legal reasons, an explanatory note in simple language should be included.

The use of explanatory notes in conjunction with legal notices is already a practice with many zoning by-law applications and should be extended to cover applications of other kinds. With some kinds of applications, maps or diagrams would also be useful forms of explanation.

Another matter that has given the Committee considerable concern is the question of the number of Board members who ought to preside at the hearing of any given application. Until The Ontario Municipal Board Act was amended in 1972, a single member of the Board could hear an application and then report to two other members, who made the decision. Because of the heavy backlog of cases the amendment was introduced, making it possible for a single member to hear a case and make the decision alone. This amendment was an improvement, in this Committee's opinion, but it has an obvious weakness. With a large number of Board members all sitting individually at separate hearings, the frailties of human nature make it likely that certain inconsistencies will creep into the Board's approach to matters that should, for fairness, be treated uniformly. Beyond that, it disturbs this Committee to know that one member of an appointed body is thus empowered to overrule the elected council on a matter of far-reaching and intense concern.

For this reason, the Committee believes there is a clear advantage in having two or more members hear all contentious applications. This arrangement would be practicable, the Committee believes, if the Board's caseload is decreased through other measures recommended in this Report.

The two-man rule would not apply to preliminary hearings or to appeals from committees of adjustment or land division committees; the latter two do not involve major policy matters and usually concern only a small number of people. The Committee therefore recommends amending The Ontario Municipal Board Act in line with this recommendation:

XIX. Except at preliminary hearings and appeals from committees of adjustment and land division committees, where a single Board member could preside, every application to the OMB should be heard by at least two members.

The Committee has a brief observation to make about appointments to the OMB. Present members of the Board have a wide variety of backgrounds—in training, disciplines and experience. This variety is an asset to the Board and its work. While the Committee feels that the choice of new members should be governed mainly by their ability to adjudicate and to communicate with the public, we recommend that:

XX. When new appointments are being made to the OMB, special attention should be paid to the candidates' previous experience and its relevance to the Board's work. The object should be to widen the variety of relevant occupations and general backgrounds among Board members.

As for length of tenure, since it is important for members to be responsive to government policy, they should hold office during pleasure—not for life or for a fixed term. The Government should not interfere with the conduct of individual proceedings, but it should have the right to remove a Board member whose conduct and record indicate that he is not responding to government policy or that he does not live up to the high standards expected of the Board in the conduct of its work.

The Committee has heard some critical testimony regarding the demeanour of Board members not acting with due patience and courtesy. It should be noted that any citizen has the right to complain to the Attorney General under such circumstances.

LOCAL GOVERNMENT FINANCE

In various pieces of legislation governing local spending there are deplorable overlappings and inconsistencies that unnecessarily complicate the operations of municipalities and the work of the OMB. Some of the matters raised in the next few passages are ostensibly outside this Committee's terms of reference, yet they are related to the procedures of the Board.

Section 64 of The Ontario Municipal Board Act, for instance, provides that a municipality, a school board and many other special purpose bodies shall not authorize, or proceed with, any work, or provide monies for that work, if such monies are to be raised in any year beyond the current term of office. This section also prohibits the issuance of debentures without OMB approval. In effect, this section means that all capital expenditures except those paid out of current revenue must be approved by the OMB. Other OMB approvals are required by other acts (such as The Municipal Act and The Local Improvement Act) if a municipality wants to establish special tax rates or levies.

Under various sections of The Municipal Act, the proportions of council votes required to pass various kinds of by-laws are different; some require a two-thirds vote, others three quarters, and so on. There is no consistency.

A municipality can decide to build a recreation centre, for instance, without a vote of ratepayers and without giving public notice that it intends to apply to the OMB for this purpose. In fact a council can build a recreation centre without notifying its citizens at large at any stage.

The ultimate decision whether or not a vote of the ratepayers will be held rests with the Board—if it chooses to use its powers under The Ontario Municipal Board Act. Section 53 (1), paragraph (f) empowers the Board to order a vote of the electors even if a vote is not otherwise required; and section 63 empowers it to dispense with a vote of ratepayers in *any* case.

The Committee was told that in the great majority of cases it is customary for a municipality to request the Board to dispense with the vote of ratepayers after giving appropriate notice. This is an understandable attempt to simplify an otherwise cumbersome process. The Committee believes that a better alternative would be to make all these procedures uniform.

In addition to the Board's approval of capital expenditures, many works, such as sewers and water mains, also have to be approved by other government bodies, such as the Ministry of the Environment or a regional government council.

Some of these statutes, such as The Local Improvement Act, set out the procedure to be followed when notice is being given that a council intends to proceed with a certain project. But, again, these procedures vary from act to act, and could usefully be made uniform, as suggested in an earlier chapter of this report.

When a municipality is dealing with works to be paid out of its capital expenditures budget, the usual practice is to consider the matter in committee then give two readings to the by-law in council. At that time, the municipality applies to all affected bodies, including the OMB. The nature and content of the material that must be filed with the Board, and the various notices that must be given, have been set out by the OMB.

When a municipality wishes to dispense with a vote of the ratepayers it must publish this intention in a local newspaper and file proof of publication with the Board. Along with this proof the municipality must also file numerous certificates of approval from other government bodies and municipal officials. Without them, the OMB will not consider the application.

These procedures vary according to the type of application and have been adopted because the Board, under sections 62 and 68 of the Act, is required to investigate the application as though it were a municipal council considering the proposal for the first time.

If these sections are amended, as this Committee has suggested, the Board will no longer be burdened with the task of making sure all the other necessary approvals have been obtained. Instead, this responsibility will rest with the municipal council, where it properly belongs.

Few capital expenditure applications made to the Board are objected to, and yet all must be processed by the Board. The result is needless paperwork and delay.

Under section 64 of The Ontario Municipal Board Act, a municipality can apply to the Board for approval to spend monies and dispense with a vote of the electorate, for a class or classes of work. No particular work needs to be specified. Apparently this section was intended to permit municipalities to obtain bulk approvals of capital expenditures within their financial capabilities at the early part of the year. Then, for the rest of the year, they would be free to undertake individual works of the class approved, without further reference to the Board. This section of the Act has seen little and varied use, and it has been used even less in recent years than it once was. One reason seems to be a matter of logistics for the municipalities. Because of necessary procedures at the local level, councils are often not prepared to go to the Board with their projects until two or

three months into the new year. By the time the Board has considered a capital expenditure proposal and related its costs to school and other expenditures, and then made a decision, it may be April or May: the calendar year is almost half gone.

Municipalities may be reluctant to use this section of the Act for another reason: that even after bulk approval, the individual projects in the package may still need approval because of objections from ratepayers. As councillors know, most electors are more concerned about individual projects than about the financial health of the municipality as a whole, and so ratepayers are less likely to voice objections during bulk approval than when individual projects are proposed. No council wants the bother and the false security of bulk approval if another approval is likely to be called for. Furthermore, ratepayers may begin asking at that stage why no vote of the electorate took place before bulk approval was granted.

A commendable move by the OMB has been its introduction of a system whereby many municipalities are required to make five-year capital forecasts, revising and submitting these annually. This system has the advantage of directing councils' attention to future capital needs while leaving them year-to-year flexibility in their planning of expenditures.

The Ministry of Treasury, Economics and Intergovernmental Affairs has overall responsibility for the financial welfare of municipalities—which means there is a division of responsibility in this area between the Ministry and the OMB. This division does not seem logical to the Committee. While the OMB should continue to hold public hearings when there are serious objections to a project or the method of repayment, the Committee believes that:

XXI. The present responsibility of the OMB for supervising the municipalities' capital expenditures should be transferred to the Ministry of Treasury, Economics and Intergovernmental Affairs. The Ministry should issue borrowing guidelines within which the municipalities are to decide on these expenditures. However, the OMB should be empowered to hear appeals on the merits of individual projects.

One aim of the Ministry should be to streamline capital expenditure procedures and make them uniform. It should exercise general oversight and should use its new authority to expedite capital projects within the municipality's financial capability.

As an essential corollary to that recommendation, the Committee adds:

XXII. Municipal councils, working according to recognized formulas, should be allowed to apply for bulk approvals of capital expenditures spread over a full term of office.

As a second corollary, the Committee recommends that:

XXIII. Even before it obtains bulk approval of a two-year capital expenditure program, a municipality should have the power during the first year to make capital expenditures equal to half of what it spent on capital works the previous year. Such power, however, would be subject to certain limitations and could be exercised only if there were no objections.

Such expenditure would be permitted without OMB or ministerial approval but would be subject to these provisions:

- i. The expenditure could not exceed the guidelines established by the Minister;
- ii. Standard notice relating to individual works must be given to which no objection has been raised.

By means of the changes the Committee has recommended in regard to notices of matters coming before council, changes in Board procedures, changes in sections 62 and 68 of The Ontario Municipal Board Act and other changes recommended in this report, the Committee believes five major objectives can be achieved:

- i. The electors will be made aware of all capital expenditures their councils are proposing (except for expenditures to be made out of current revenue) and will have an opportunity to take part in the making of such decisions.
- ii. More responsibility for policy decisions will rest with local councils, while the Board will still have the power to order a vote of electors when a vote seems appropriate.
- iii. Bulk approvals will be more rapidly and consistently available.
- iv. The Board's workload will be drastically decreased, thereby speeding up its consideration of contentious cases.
- v. There will be uniformity in capital expenditure procedures.

To provide the guidance and supervision municipalities would continue to need, the Ministry should publicize its general formula for establishing capital expenditure quotas, and it should continue the OMB's present scheme of requiring municipalities to provide five-year capital forecasts.

To increase citizen participation in their decisions, and thereby make many appeals to the OMB unnecessary, municipal councils should follow certain new procedures in deciding on capital expenditures.

The following procedure should apply to capital expenditures that will not be paid for within the lifetime of the council. Before a council enacts such a by-law or makes application to establish a capital expenditure quota, it should be required to publish a notice of its intentions. This notice should contain full details of the by-law, or capital expenditures budget including the time and place where it will be considered, and should say that the council or committee will hear representations from all who wish to be heard. This notice should be posted in public places and should appear in a local paper at least once a week for two weeks before the meeting. In the case of frontage or area levies, the council should be required to send additional notice by mail to all persons listed on the last assessment roll who are likely to be affected by the proposed rates.

The whole object of such exercises should not merely be to satisfy some legal technicality but to encourage public dialogue and citizen participation in local decision-making.

In this spirit, the Committee recommends that:

XXIV. Legislation should require all municipal councils to keep the public informed and give them the right to be heard when capital expenditures are to be debated and decided upon. When a council has made such a decision, it should be required to send to all who have requested in writing a notice announcing what the decision is and the time limit for an appeal to the OMB.

With such notices being sent out routinely there would be ample opportunity for any bona fide objections to reach the OMB. To appeal a council decision, a person would simply send notice to the municipal clerk and to the secretary of the Board no later than 21 days after the council notice was mailed.

At the same time, with capital expenditure proposals that arouse no objections, councils would be able to press ahead if this further recommendation were adopted:

XXV. When a municipal council wants to make a capital expenditure within its quota, it should not have to seek approval from the OMB or any ministry, provided no objection is filed.

On the other hand, if an objection were raised the municipality would not be able to go ahead until the OMB had held a hearing and granted approval under section 64. Meanwhile the Board would be free to exercise some of its other existing powers. It could invoke section 53 (1) (f) and order a vote of electors—of the whole region or municipality or some local service area—or it could refuse to approve a work if it felt there was reasonable cause to do so.

To increase municipal initiative and authority while safeguarding the rights of ratepayers, the Committee further recommends that:

XXVI. The Municipal Act, The Local Improvement Act and other relevant acts should be amended to enable a municipality to pass any capital expenditure by-law by means of a vote by a majority of all council members; no vote of ratepayers should be required unless one is ordered by the OMB as the result of an appeal.

In amending legislation, special consideration should be given to municipalities with boards of control or executive committees.

Procedures such as those outlined in this section should apply to school boards and other special purpose bodies which now come under the financial jurisdiction of the OMB.

PLANNING

Under The Planning Act, the OMB has direct and indirect responsibilities in regard to planning. Directly, it is responsible for approving restricted area (zoning) by-laws under section 35, for approving of redevelopment plans, and for hearing appeals from committees of adjustment and land division committees under section 42. The Board's indirect responsibilities come into play when the Minister refers official plans and plans of subdivision to the OMB under section 44 of The Planning Act.

The Committee found that by far the greatest amount of public interest, and the largest portion of its time, were focussed on questions concerning the OMB's approval of zoning by-laws. The Committee found it impossible to consider this function of the Board in isolation from the whole planning process; therefore it has made some recommendations for changes it considers desirable in planning procedures. However, it feels that more investigation is needed and therefore strongly recommends that:

XXVII. The Legislature should appoint a Committee to undertake a comprehensive review of the planning process in Ontario, or the Government should provide some alternate method of conducting such a review.

Conditions and public goals have changed enormously since The Planning Act was passed in 1946; indeed, there has probably been no other quarter century in the history of Ontario when there have been changes as radical as those brought about through industrial and population growth and the accompanying process of urbanization. And so the Act itself, though a model of progressive legislation in its day, seems due for a thorough review, as do the procedures that flow from it and from other relevant acts.

Such a review should take into account the Government's increasing desire to be responsive to the changing needs of the people, and the associated desire to strengthen local government.

One object should be to determine whether local governments have the legislation and powers they need to do a proper planning job.

The Government's recent reorganization was motivated partly by a desire to improve its own planning process, and it would be ironical if The Planning Act itself were allowed to become an anachronism.

Meanwhile, steps should be taken to overcome the public confusion about planning. There is considerable confusion, for instance, over the difference between an official plan and a zoning by-law and over the different procedures for processing them. The Committee believes that, because of this confusion, the intentions of The Planning Act are being thwarted.

Beyond that, the planning process and the OMB are being abused by persons and groups with selfish motives. As with capital expenditures, an objection to a planning by-law can delay an otherwise desirable development for several months. Further delays can ensue when reviews are launched under section 42 of The Ontario Municipal Board Act. Such delays can be costly and, in the case of housing in particular, it is the public that ultimately pays.

Often, in connection with the same development, there can be a hearing on an official plan and another on a zoning by-law. The OMB tries to prevent such duplication but is not always successful.

Some planning problems would not arise if private citizens became involved in local decision-making at some early stage, and if the Provincial Government established guidelines for planning or issued policy statements, as recommended earlier in this Report.

At the present time, when a proposed change in land use conflicts with an official plan, the planning board is required, under The Planning Act, to consider and recommend to council an amendment to the official plan. If council adopts the recommendation, it is forwarded to the Minister for approval. At no stage, however, is public notice clearly required.

If the official plan process is analogous to the by-law process (and this Committee believes it is), then the Brampton case shows that natural justice requires notice and a hearing at council level before a change in land use can be enacted. Whether or not the Brampton case is upheld by the Court of Appeal, the law should be amended so that it is not possible for a change in the official plan to reach the point of ministerial approval without notice to concerned persons. The Committee believes that in such cases notice should be required at the planning board level and the council level. It also believes that the public should be made aware that the Minister may modify or disapprove an amendment to an official plan, and that any person can request the Minister to refer an official plan amendment to the OMB under section 44 of The Planning Act.

Ironically, a zoning by-law that conforms to an official plan and gives rise to no objections can nevertheless be subjected to lengthy delays in processing by the OMB. Here is how that sometimes happens: A council enacts a by-law that conforms to its official plan. (It can do so quite readily, since public notice is not required until after passage by council.) Then notice is given, and if there are no objections, the application

goes to the OMB for approval, even though a hearing need not be held. At this stage, the Board refuses to deal with the application until it has received a report from the Minister—particularly as to whether the application appears to comply with the official plan.

The Committee believes that it is sound procedure for the OMB to seek such references, rather than employing its own planning staff. However, the process does take time, and it would be imprudent of the OMB to attempt any shortcuts. Certain sections in The Planning Act provide that (a) no by-law may be enacted if it is contrary to the official plan, and (b) once the OMB approves a by-law, that by-law is deemed to conform to the official plan.

Of necessity, official plans are often vague in nature, outlining broad principles of policy. As a result, municipalities have been inclined to seek OMB approval of all their by-laws, instead of using a process that might otherwise be made available.

In order to alleviate the workload of the Board, section 35, subsections 24 to 27 inclusive, provide for the making of regulations with respect to notices, and declare that if such regulations are complied with, a zoning by-law can come into force without OMB approval. However, no regulations have been made under these subsections, and so they are inoperative.

Believing that the OMB should not be involved in approving unquestioned and unopposed zoning by-laws, and that early public notice and certainty in by-laws are desirable, the Committee recommends these changes in legislation and procedures:

- XXVIII.**
- A. Regulations should be promulgated under section 35 (24) of The Planning Act so that in a municipality with an official plan, a by-law can come into force without OMB approval and be deemed to comply with the official plan.**
 - B. Municipalities should be required by law to issue, in everyday language, uniform notices concerning all planning issues being considered by their councils and planning boards and to give the public the right to be heard.**
 - C. In the case of a zoning by-law, a municipality should be required to give notice of enactment to the Minister and to all persons who in writing requested notification. These notices should advise that the by-law will become effective unless someone appeals to the OMB within 21 days.**

Requirements for notice on official plans and zoning by-laws should be substantially the same as for notices of capital expenditures; notices should be posted on the properties in question, if possible; mailed notices should go out to property owners and tenants in the affected area; proposals with widespread implications (new official plans, general amendments to official plans, comprehensive zoning by-laws) should be subjects of notices displayed and mailed throughout the municipality and should be advertised at least once a week for two weeks in a local newspaper. Adequate time should be required for all notices.

Neighborhood meetings should be arranged with municipal staffs, elected representatives and interested citizens to acquaint everyone with the proposal and to hear comments and suggestions from those affected, including the right of the public to elicit information.

Once an official plan, or an amendment to one, has been adopted, all citizens who in writing have requested notification should be advised by mail of the outcome and be told that the application is being sent to the Minister for approval. Citizens should be advised in the same notice that the Minister has the power to modify the proposal and that anyone in the municipality has the right to request the Minister to refer the matter to the OMB for a public hearing.

At the same time, to reduce the number of matters referred to the OMB for decision:

- XXIX.**
- The Minister should be given greater discretion as to whether any official plan or plan of subdivision needs to be referred to the OMB. (This recommendation would be subject to the review suggested in Recommendation XXVII.)**

In this Committee's opinion, such discretion should be provided to the Minister because the item that comes before him may be one that falls clearly within a known government policy or one that is of such significance that the Government wishes to adopt a policy in regard to it. In such instances, referring it to the OMB would not be an appropriate action. On the other hand, the Minister should have the authority to refer such a matter to the OMB for a hearing, asking for a recommendation rather than a decision.

In cases where an official plan is referred to the OMB for a decision, the Board should adopt the practices for preliminary hearings and other procedures outlined earlier.

Plans of subdivision

The Committee received few comments or submissions about plans of subdivision. One reason is that the OMB itself has few applications of this kind, and therefore the subject is not of major significance to the Board, although it should be a matter of some concern in any survey of planning practices.

On the basis of rather limited information, the Committee surmises that the Board is ill-equipped to process plans of subdivision except to adjudicate disputes between interested parties.

Apparently residents living in the vicinity of a proposed plan receive no notice of such applications, may never be aware of them and thus have no opportunity to express their views.

The Committee, believing this matter should be included in the recommended study of the planning process, merely recommends that in the meantime the Minister should be given more discretion in deciding whether to refer an application to the OMB, and that where there are regional municipalities, the Minister's power and discretion in this matter might reasonably be transferred to the regional council.

As with the recommendation in regard to ministerial discretion with official plans, the Committee's intent is to reduce the workload of the OMB.

Committees of Adjustment

Those who made representations to the Committee displayed a great deal of interest and concern in regard to appeals to the Board from committees of adjustment and land division committees. The Committee became concerned chiefly with two problems. One was the delay in waiting for appeals to be heard; the other was the fact that the Board has often found itself in a dual role, first enunciating public policy and then passing judgement on the case.

The Committee is confident that the first problem will be overcome in large measure if the Board adopts the procedure of preliminary motions recommended earlier. Also, the Committee understands that the Board has altered its internal procedures to expedite hearings and reduce the backlog of appeals.

In regard to the problem of the Board's enunciation of government policy, the Committee believes that this practice will become unnecessary if the Government adopts the recommended procedure of issuing regulations and ministerial policy statements. These should clearly state government policy in regard to land separations in particular. The Government should also state specifically that the Board is to be bound by statements of policy in official plans.

Committee of adjustment appeals are not generally of wide public concern, since they usually affect only the individuals directly involved and in many cases fall clearly within government policy or within provisions of official plans. For this reason, the Committee believes that only one member of the Board should be required to hear such appeals.

MUNICIPAL STRUCTURE

The OMB has great power over municipalities. It can create them, amalgamate them, enlarge them and dissolve them. It can establish the composition of their councils.

These powers were granted before the Government established its present policy in regard to regional government studies, and it is worth noting that section 26 of The Municipal Act provides the Minister with the power to have any application to the Board deferred until his regional studies in the area have been completed.

The Committee agrees that regional studies should be undertaken by the Government, not by the OMB. Furthermore, it believes that annexations and amalgamations, as well as the creation and dissolution of municipalities, should be undertaken by the same process. Municipal boundaries are arbitrary lines drawn with the object of creating a municipal unit within which citizens may best govern themselves and, through their administration, provide services to residents and properties. The drawing of such a boundary, then, is a political act that should be undertaken by the elected government of the province, not by an appointed administrative body.

When questions of boundaries come before the OMB, the Board adjudicates them under an adversary system; applications tend to become contests to win or defend territory when they should be discussions to determine how the people can best be served.

While the OMB has tried in its decisions to emphasize that its chief concern is to create areas of common interest in which services can be effectively provided, its hearings too often have an unfortunate atmosphere in which professional witnesses and experts are retained to report their studies, give evidence and prove their respective points. The Committee has received complaints and comments about the high cost of such contests and the bitterness that often ensues between ratepayers.

The Committee believes that much of the cost and perhaps all of the bitterness could be avoided if proposals for restructuring a municipality were dealt with first at the local level, at meetings conducted by provincial government administrators. At those meetings, people could express their opinions about the need and availability of services and could help determine what areas would make the best municipal units.

Such thinking is the basis for this recommendation:

XXX. The power the OMB now has to create, dissolve, amalgamate or annex municipalities should be transferred to the Minister and the Lieutenant Governor in Council (Cabinet).

Having assumed this power, the Minister should have the obligation to conduct an informal public inquiry into any question involving a municipal boundary, and to do so in whatever depth he sees fit. In some cases, he might see merit in requesting the OMB to hold a hearing and report its findings. The Minister would then make a recommendation to the Cabinet. The Cabinet might then change the boundary by order-in-council (if the change were minor) or by introducing legislation. After the boundary decision was made, the OMB could serve usefully in hearing arguments on the adjustment of assets and liabilities and on other incidental matters relative to the basic decision.

The OMB's influence over the composition of municipal councils flows from its power to divide municipalities into wards. In a sense, ward boundaries are local matters, and it could be argued that they should be determined locally—by the council. However, there could be abuses to the system of representation, and for this reason there should be public participation in such decisions.

Therefore the Committee believes that a council intending to alter a ward boundary should be required to issue public notices similar to those recommended for capital expenditure proposals—first a notice of intention and then a notice of decision accompanied by information as to how and when the decision can be appealed to the OMB. If no one appeals, the decision should be final. If an appeal is launched, the Board should conduct a hearing and make a decision in accord with government policy.

With such a procedure as standard practice, the Committee believes that:

XXXI. Municipal councils should have the power to create, alter or dissolve wards, with a right of appeal to the OMB given to any objector.

ASSESSMENT

Assessment is the fixing of values of properties for taxation, and the determination of what property is liable for taxation and who is liable to pay the taxes. In Ontario, assessments of individual properties are made by provincial assessors. Hearings relating to assessment, being proceedings that directly affect the rights of individuals as to the amount of taxes they must pay, must be carried out in a judicial manner. Policy is seldom at issue; mostly it is a question of fact in determining what is a fair quantum of assessment.

Once an assessment is made, an appeal may be taken to an administrative tribunal, namely, the Assessment Review Court, where a full hearing is held and a decision made. An appeal from this decision may be taken to the county or district judge, who conducts a hearing in the form of a new trial on questions of fact. A further appeal can be taken from the judge to the OMB; again, the hearing takes the form of a new trial. Where the property value is more than \$50,000, an appeal may be taken directly from the Assessment Review Court to the OMB.

In effect, there are three separate trials possible on any assessment appeal, with the anomaly of the case moving from an administrative board to a judge and then to another administrative board.

The Assessment Review Court hears a large number of appeals. In 1971, it handled 192,237 appeals, 39,975 of these relating to the amount of assessment—the category that is most contentious and time-consuming. The Committee was advised that in 1972 there were 7,000 appeals from the Assessment Review Court to county and district judges, and that in 1970 there were 267 appeals to the OMB.

Of course these figures are not directly comparable but they do indicate the large number of assessment appeals that are heard. The Committee expects a substantially greater number of cases in 1974, when assessments under the new assessment procedure come into force; within a year or two after that, the volume is expected to return to the level of the past two or three years.

Procedures relating to assessment appeals give rise to certain problems. Some of these problems are relevant to the work of this Committee and others, though important, are not. (One example of the latter is the apparent need to place the onus on the assessor to prove that an assessment was fairly arrived at.)

The most important problem of concern to the Committee is the amount of time and expense involved in three entirely separate hearings. The expense and time thus spent seem wasted to some extent, for this reason: The Assessment Review Court keeps no transcript of its proceedings because the volume of cases is so great, and a county judge seldom keeps a transcript either. For this reason there can be no true appeal from one body to the next, and some appellants tend to adduce very little evidence at the first two trials because they anticipate proceeding to the third trial.

A second problem concerns the legality of the OMB's role in the taxation field. The courts have held that adjudicators such as the OMB, not having been appointed by the Federal Government, have no power to determine assessability but can determine only the questions of quantum. Under The Assessment Act (section 66) applications concerning questions other than quantum can be taken to the Supreme Court of Ontario or the County Court. However, the bulk of appeals that go beyond the Assessment Review Court relate to questions of quantum.

It would be reasonable to separate the assessment function from the other functions of the OMB because the former is closest to a judicial function and requires specialized knowledge and expertise. However, it seems necessary to have a centralized administrative body to deal with assessment appeals, particularly now that assessment itself is a provincial function.

At the same time, the Committee believes that there should not be three levels of appeal in assessment matters, but if appeals were to stop at the county or district judge level, the result would be a fragmentation of the uniformity of assessment that has been attempted through revision of provincial assessment legislation.

The Committee therefore recommends that:

- XXXII. A. Assessment appeals should be made directly from the Assessment Review Court to the OMB and no longer be heard by county or district judges. Consideration should be given to forming a separate division of the OMB for hearing assessment appeals.**
- B. The OMB should have power to state cases of law to the county or district court as well as the Supreme Court of Ontario.**

If it is anticipated that the volume of appeals would be too great for the OMB under this new arrangement (taking into consideration that the Board's workload should be reduced considerably in other ways) then a separate assessment appeal board should be established, either as a new body or as an appellate division of the Assessment Review Court and it should be given the same jurisdictional power as has been recommended here for the OMB.

Equalization of Assessment

The OMB also has jurisdiction over disputes between municipalities where equalization of assessment has come into question within a county or region. The facts heard by the Committee indicate that there are few problems in this area and few instances of serious concern. It is desirable for some body to be available to hear aggrieved municipalities state their cases by way of appeals from provincial assessors' decisions. The OMB appears to have served this function well, and the Committee recommends that it continue this work.

APPEALS AND REVIEW

There are two methods of appeal from the OMB. An appeal regarding a point of law or jurisdiction goes to the Divisional Court of the Supreme Court of Ontario. A petition (appeal) relating to policy goes to the Lieutenant Governor in Council (Cabinet).

The Board at the same time has the power to state a case in law for the opinion of the Divisional Court. This is provided to assist the Board when there is doubt as to its jurisdiction or doubt as to what law applies to a given case. (This opinion would be requested before or during an OMB hearing.) The Board also has the right, under section 42 of The Ontario Municipal Board Act, to alter or rescind any of its own decisions.

It is noted that there are varying time limits on these appeals. On an appeal to the courts there is a period of 30 days, on an appeal to the Cabinet 28 days, and on a review under section 42 there is no time limit.

In the case of appeals to the court, leave must be obtained within one month from the day the decision is made. The Committee believes that these provisions should be maintained, but in view of certain procedural problems, modifications in the statute should be made.

The Committee has been advised that the procedural sections of the Act relating to appeals are not consistent with the Court's own rules regarding appeals, and that the statutory 30-day period for obtaining leave to appeal creates many difficulties, particularly during periods when the Court is not in session. Also the Act does not set out procedures for the Court to follow when a case is stated to it; nor is there any obligation on the Board's part to state a case when requested.

Now that The Judicature Act has been amended to provide for appeals to the Divisional Court instead of to the Court of Appeal, a review of all the provisions in The Ontario Municipal Board Act should be undertaken to eliminate ambiguity and confusion. The Committee therefore recommends:

XXXIII. The Attorney General should review in detail those sections of The Ontario Municipal Board Act dealing with appeals to the Divisional Court and the stating of cases in law.

In regard to appeals from the OMB to the Lieutenant Governor in Council the Committee has heard expressions of much concern, both practical and philosophical. Under the present Act, a petition may be filed with the Clerk of the Executive Council within 28 days of the Board's order or decision, and the Cabinet may either confirm, vary or rescind the order, or order a new hearing before the Board.

Objectors to this procedure point out that there are no rules or regulations as to how the petition is to be prepared or filed, and that the appeal at this stage becomes a political matter rather than an administrative matter. Also, there is no provision for a hearing to be held by the Cabinet.

Recently the petitions by way of appeal to the Cabinet have increased considerably in number and often take many months to be disposed of—a situation which, apart from the merits of the petitions themselves, must be of great concern to the Cabinet.

All these criticisms seem valid.

Some appeals are of a substantial nature and should be dealt with as policy matters by a political body such as the Cabinet. However, most are not matters of sufficient significance to warrant the Cabinet's consideration. Furthermore, a high percentage of appeals to Cabinet (78 per cent) have been dismissed.

The Committee has considered alternate provisions, including the possibility of having appeals made to the Minister, who would assign an inquiry officer to hear the case and report to him. The Minister would have the power to consult his Cabinet colleagues before making the decision. In effect, this would amount to an additional administrative hearing, but the decision would be made at the political level.

An alternative, which the Committee recommends, is this:

XXXIV. It should be possible for an objector to appeal an OMB decision to the Cabinet only if a panel of three members of the OMB (none of whom made the original decision) finds that the matter is important enough to warrant the Cabinet's attention; and either the Board may have deviated from government policy, or there is no government policy applicable to the case.

The Cabinet should retain its right to interfere with an OMB decision on its own initiative.

Leave would thus be granted to appeal only important policy matters and a 30-day time limit should apply. After leave to appeal had been granted, only the records and decisions of the OMB would be required by the Cabinet. There would be no need for petitions or other information because the points of policy would have been clarified before the appeal went to the Cabinet.

If the Board determined that the matter was not one that should go to the Cabinet, leave to appeal would be denied. In order to assist the Board in this procedure, the Cabinet should set out guidelines and policy statements within which the Board could operate in determining which matters deserved Cabinet attention.

In a matter of grave public concern, the Cabinet would have the power to make a policy statement either to help the Board or to determine the matter in the interval between the application for leave to appeal and the actual hearing of such application.

The Cabinet's right to change an OMB decision on its own initiative must be retained so that it will maintain control of policy.

Because interested parties have the right to know whether a Board decision is final—or what the final disposition of a matter is—a short time limit (such as 30 days) should be inserted into the statute in respect of all such appeals.

Further consideration should be given to the comments relating to appeals contained in the Royal Commission Inquiry into Civil Rights, particularly in Report No. 1 and generally in Report No. 3.

While the Committee has not had time to study all these matters in detail, it strongly disagrees with the suggestion to repeal section 95 (7) of The Ontario Municipal Board Act, which now prevents the courts from interfering with the Board's functions. The Committee believes that such interference would not serve any useful purpose in view of the broad appeal procedures and provisions for stated cases. On the contrary, it would only serve to create additional delays in the Board's proceedings.

The other matters mentioned in the report by Mr. McRuer and not specifically covered in this Report should be studied in the detailed review recommended.

With regard to reviews under section 42 of The Ontario Municipal Board Act, the Committee considers this a most extraordinary remedy and a power not widely held either by courts or any other administrative tribunal.

The Committee sees nothing wrong with the Board exercising this power to correct technical defects or administrative errors including reconsideration of a decision on a preliminary hearing, but it is dismayed at the possibility of the Board making a decision and then reopening the matter years later and reversing its position. By then the persons involved would, in all likelihood, have acted or relied on the original decision. Since many persons other than those directly involved in an application may be affected by an OMB decision, this situation is especially critical. The Board should not have the right to grant a re-hearing under section 42 if the decision was judicial rather than administrative. And so the Committee recommends that:

XXXV. The power the OMB now has to review its own decisions should be restricted as to time and extent.

It was brought to the Committee's attention that the OMB's decisions are sometimes difficult to enforce. Admittedly, this problem does not arise frequently because the Board, apart from directing a municipal council to amend a zoning by-law, has few affirmative powers to exercise in the course of its work.

While it is true that in respect to enforcing its orders, the Board has all the powers of the Supreme Court of Ontario (and may file its orders with the Registrar of that Court), the cases it deals with are considerably different in character from those handled by the Supreme Court. The Court generally looks to the sheriff to enforce its decisions—which the Board cannot practically do.

Instead, the Board's authority should be backed by its own Administrative Branch and failing that by the appropriate provincial ministry. Therefore the Committee finally recommends that:

XXXVI. The OMB's orders should be enforced by its Administrative Branch and by the Attorney General.

SUMMARY OF RECOMMENDATIONS

Government and the OMB

- IV The OMB should remain an independent tribunal. However, the Government should conduct a broad study of the relationship between elected bodies and provincial boards, agencies and commissions. (Page 2).
- VI The Government, through regulations or official policy statements, should clearly state the policies it expects the OMB to follow. Such declarations should be issued routinely to the Board, to all municipalities and to the public at large. Where policy is not clear the Board should ask for clarification. (Page 3).
- XXIX The Minister should be given greater discretion as to whether any official plan or plan of subdivision needs to be referred to the OMB. (This recommendation would be subject to the review suggested in Recommendation XXVII.) (Page 13).

Functions of the OMB

- I.
 - A. All the functions of the OMB and all legislation relating to its role should be catalogued. (Page 1).
 - B. All functions not dealt with specifically in this Report should be reviewed in detail with the object of determining whether each power and function should be left with the OMB, transferred to some other body, or abolished. (Page 1).
- II. The OMB should continue as an independent appeal tribunal to review municipal legislation, subject to the changes recommended in this report. (Page 2).
- III. The OMB's jurisdiction should be expanded so that whenever any government proposes a project likely to affect a community, the Board is available, at the Government's request, to review the proposal at public hearings and make recommendations to the Provincial Government. (Page 2).
- XIII. Amendments should be made to The Ontario Municipal Board Act and The Planning Act to make it clear that an objection or an appeal to the OMB will be treated as an appeal and not as a hearing de novo (i.e. a full new inquiry). (Page 6).

Powers of the OMB

- VIII. Unlike a court, the OMB should not be rigidly bound by its own previous decisions but should attempt to follow a consistent policy. (Page 4).
- XXI. The present responsibility of the OMB for supervising the municipalities' capital expenditures should be transferred to the Ministry of Treasury, Economics and Intergovernmental Affairs. The Ministry should issue borrowing guidelines within which the municipalities are to decide on these expenditures. However, the OMB should be empowered to hear appeals on the merits of individual projects. (Page 10).
- XXX. The power the OMB now has to create, dissolve, amalgamate or annex municipalities should be transferred to the Minister and the Lieutenant Governor in Council (Cabinet). (Page 15).
- XXXI. Municipal councils should have power to create, alter or dissolve wards, with the right of appeal to the OMB given to any objector. (Page 15).
- XXXII.
 - A. Assessment appeals should be made directly from the Assessment Review Court to the OMB and no longer be heard by county or district judges. Consideration should be given to forming a separate division of the OMB for hearing assessment appeals. (Page 16).
 - B. The OMB should have power to state cases of law to the county or district court as well as the Supreme Court of Ontario. (Page 16).
- XXXIII. The Attorney General should review in detail those sections of The Ontario Municipal Board Act dealing with appeals to the Divisional Court and the stating of cases in law. (Page 18).
- XXXIV. It should be possible for an objector to appeal an OMB decision to the Cabinet only if a panel of three members of the OMB (none of whom made the original decision) finds that the matter is important enough to warrant the Cabinet's attention; and either the Board may have deviated from government policy, or there is no government policy applicable to the case. The Cabinet should retain its right to interfere with an OMB decision on its own initiative. (Page 18).

- XXXV. The power the OMB now has to review its own decision (see section 42 of The Ontario Municipal Board Act) should be restricted as to time and extent. (Page 19).
- XXXVI. The OMB's orders should be enforced by its Administrative Branch and by the Attorney General. (Page 19).

Procedures of the OMB

- XI. The Board should make a practice of accepting reports and other written material without insisting on the author giving oral evidence. (Page 5).
- XII. The OMB should retain the adversary system but conduct its hearings in an informal manner. (Page 5).
- XIV. The OMB should hold preliminary hearings regularly in Toronto and in various other centres throughout the province. (Page 7).
- XIX. Except at preliminary hearings and appeals from committees of adjustment and land division committees, where a single Board member could preside, every application to the OMB should be heard by at least two members. (Page 8).

Municipal and Public Relations

- VII. The OMB's decisions should be edited concisely and published regularly. (Page 4).
- XV. The OMB should set up information centres in many parts of the province. Branch offices of the Ministry of Treasury, Economics and Intergovernmental Affairs, or of other ministries, could be used for this purpose. (Page 7).
- XVI. The OMB should establish an Administrative Branch separate from its hearing branch. (Page 7).
- XVII. The OMB's Administrative Branch, once established, should publish a brochure spelling out, in plain language, exactly what the Board's functions, powers and procedures are. (Page 7).
- XVIII. The OMB should rewrite its procedural memoranda and prepare application forms, standard public notices, by-laws and other such material, all in everyday language. When formal language is required for legal reasons, an explanatory note in simple language should be included. (Page 8).

Citizen Participation

- V. Amendments should be made in the appropriate statute to require all municipalities to involve the public in local decision-making, by these means:
- A. Before a council finally determines an issue involving planning or capital expenditure, its intention to do so should be made known in a public notice written in plain language.
 - B. At the same time, the municipality should release all relevant information and reports.
 - C. Before the issue is voted on, ratepayers should have a full opportunity not only to present their views but also to obtain full information from the municipality at a public hearing. (Page 3).
- IX. The Government should endorse the principle of helping ratepayers and others who want to study their councils' proposals and perhaps appeal to the OMB. The Attorney General should be asked to devise the most suitable scheme. (Page 4).
- X. The Government and the OMB should encourage municipalities to find ways of assisting community groups to take part in local decision-making. (Page 4).
- XXIV. Legislation should require all municipal councils to keep the public informed and give them the right to be heard when capital expenditures are to be debated and decided upon. When a council has made such a decision, it should be required to send to all who have requested in writing a notice announcing what the decision is and the time limit for an appeal to the OMB. (Page 11).
- XXVIII. B. Municipalities should be required by law to issue, in everyday language, uniform notices concerning all planning issues being considered by their councils and planning boards and to give the public the right to be heard. (Page 13).
- C. In the case of a zoning by-law, a municipality should be required to give notice of enactment to the Minister and to all persons who in writing requested notification. These notices should advise that the by-law will become effective unless someone appeals to the OMB within 21 days. (Page 13).

Planning

- XXVII. The Legislature should appoint a committee to undertake a comprehensive review of the planning process in Ontario, or the Government should provide some alternate method of conducting such a review. (Page 12).

Appointments to the OMB

- XX. When new appointments are being made to the OMB, special attention should be paid to the candidates' previous experience and its relevance to the Board's work. The object should be to widen the variety of relevant occupations and general backgrounds among Board members. (Page 8).

Extending Local Power

- XXII. Municipal councils, working according to recognized formulas, should be allowed to apply for bulk approvals of capital expenditures spread over a full term of office. (Page 10).
- XXIII. Even before it obtains bulk approval of a two-year capital expenditure program, a municipality should have the power during the first year to make capital expenditures equal to half of what it spent on capital works the previous year. Such power, however, would be subject to certain limitations and could be exercised only if there were no objections. (Page 10).
- XXV. When a municipal council wants to make a capital expenditure within its quota, it should not have to seek approval from the OMB or any ministry, provided no objection is filed. (Page 11).
- XXVI. The Municipal Act, The Local Improvement Act and other relevant acts should be amended to enable a municipality to pass any capital expenditure by-law by means of a vote by a majority of all council members; no vote of ratepayers should be required unless one is ordered by the OMB as the result of an appeal. (Page 11).
- XXVIII. A. Regulations should be promulgated under section 35 (24) of the Planning Act so that in a municipality with an official plan a by-law can come into force without OMB approval and be deemed to comply with the official plan. (Page 13).

APPENDIX A
MEMBERSHIP OF THE ONTARIO MUNICIPAL BOARD

NAME	DATE OF APPOINTMENT	PREVIOUS OCCUPATION
W. H. PALMER, Chairman	November 1, 1972	Deputy Minister Municipal Affairs
A. H. ARRELL, Q.C., Vice-Chairman	June 30, 1961	Lawyer
H. E. ROBERTS, Vice-Chairman	June 30, 1961	Lawyer
D. JAMIESON, Vice-Chairman	December 1, 1955	Municipal Planner
W. SHUB, Q.C., Vice-Chairman	June 1, 1963	Lawyer
R. M. McGUIRE, Vice-Chairman	November 1, 1963	Lawyer
A. L. McCRAE, Member	December 1, 1958	Municipal Councillor
F. G. BLAKE, Member	November 15, 1962	Government Accountant
W. T. SHRIVES, Member	October 18, 1965	Investment Accountant
W. H. J. THOMPSON, Q.C., Member	July 1, 1966	Lawyer
B. E. SMITH, Member	August 1, 1968	Municipal Engineer
ALAN VAN EVERY, Q.C., Member	September 3, 1968	Lawyer
D. S. COLBOURNE, Member	September 3, 1968	Chartered Accountant
S. S. SPEIGEL, Member	May 4, 1970	Chartered Accountant
H. H. LANCASTER, Member	September 7, 1970	Lawyer
J. A. KENNEDY, Q.C., Former Chairman	October 1, 1956	Lawyer
	Retired—October 31, 1972	

APPENDIX B

SUBMISSIONS RECEIVED BY THE COMMITTEE

Albright, L. S.	Toronto	Citizens' Committee on the	
Alvarez, Dr. G.	St. Catharines	Brantford Expressway	Brantford
Ancaster, Corporation of the		Cobalt, Corporation of the	
Town of (2)	Ancaster	Town of	Cobalt
Annett, Mrs. J.	St. Thomas	Cochrane, Corporation of	
Annex Ratepayers' Association	Toronto	the Town of	Cochrane
Arthur, Mr. & Mrs. A. D.	Barrie	Collegiate Community	
Association of Municipalities		Ratepayers' Association	Toronto
of Ontario, The	Toronto	Colt, Don	Willowdale
Association of Ontario		Conboy, Arthur P.	Sharbot Lake
Land Economists	Toronto	Confederation of Resident &	
Association of Women		Ratepayer Associations	Toronto
Electors of Kingston	Kingston	Cooper, Lawrence O.	Barrie
Association of Women		Corbin, Charles	Grimsby
Electors of Metro		Cornwall, City of	Cornwall
Toronto (2)	Toronto	Cosgrove, Alderman P.	Scarborough
A Taxpayer	Calabogie	Costen, Stan D.	St. Catharines
Atherton, A. F. &		Crumlin Women's Institute	Thorndale
Associates Ltd.	St. Catharines	Denison, D. J.	Georgetown
Avenue Bay Cottingham		Diplock, Donald D., Q.C.	Ottawa
Ratepayers' Association	Toronto	Drazich, Mr. & Mrs. R.	Toronto
Bailey, A. Leonard	Burlington	Durham Reporter, The	Newcastle
Baker, C. M.	Hastings	Easser, Mrs. L.	Toronto
Baker, R. L. S.	Brockville	East York, Corporation of the	
Balch, Fred S.	Toronto	Borough of	Toronto
Baptiste Lake Development	Bancroft	Echo Bay Progressive	
Bardwell, K. O.	Ottawa	Conservative Association	Sault Ste. Marie
Barrie, City of	Barrie	Edwards, Hector	Toronto
Beagan, Edward G.	Nobel	Englehart, Town of	Englehart
Bedford Park Homeowner's		Erkkila, J.	London
Association	Toronto	Etobicoke Federation of	
Bell, J. Blake	Peterborough	Ratepayers' & Residents'	
Bloom, Lloyd	Hamilton	Associations	Etobicoke
Boulton, Gavin	Peterborough	Fairfield, L. C.	Grimsby
Bradley, R. A.	Toronto	Faulkner, Mr. & Mrs. R.	Stittsville
Brown, Mrs. Jean	Leamington	Federation of Citizens	
Burlington, Corporation		Associations	Ottawa
of the Town of	Burlington	Fellner, R. F.	London
Burnett, Mrs. Vern	Toronto	Fenton, Mrs. Myrna A.	McKellar
Calder, George A.	Woodstock	Ferrie, L. J.	Toronto
Canadian Association of		Ferris, Ivan H.	Parry Sound
Law Libraries	Ottawa	Filtz, Charles	Vineland
Canadian Bar Association,		Gamble Shipyard, Harry	Port Dover
Municipal Law Subsection		Genaire Ltd.	St. Catharines
(Ontario Branch)	Willowdale	Gibson, Samuel W.	Lucknow
Canadian Tire Corporation	Toronto	Gloucester-North Social	
Carlson, Ken E.	Fort Frances	Goals Advisory Committee	Gloucester
Cassidy, Mary L.	Terra Cotta	Gough, W. S.	Strathroy
Caughell, Fred	Aylmer	Grove, Eric	Hamilton
Cerisano, Mrs. Carla	Odessa	Guelph, City of	Guelph
Chapman, R. E.	Bobcaygeon	Habel, Mrs. Edna	Kitchener
Chinguacousy Rural		Haileybury, Corporation of	
Ratepayers	Brampton	the Town of	Haileybury

Hallowell, Township of	Bloomfield	Metropolitan Toronto,	
Hamilton Board of Control	Hamilton	Municipality of	Toronto
Hamilton & District		Mitchell, J. W.	Sault Ste. Marie
Council of Women	Hamilton	Mullen, P. V.	St. Catharines
Hammer, A. C.	Shelburne	Mulligan, Mrs. M. H.	Sudbury
Hanmer's Farmers' Club	Hanmer	Municipal Planning	
Harris, Mrs. M.	Scarborough	Consultants Co. Ltd.	Toronto
Harrison, Mrs. R.	Warton	Neidre, Mr. & Mrs. A.	Toronto
Hartmann, F.	St. Catharines	New Liskeard, Corporation	
Hastings, J. E.	Toronto	of the Town of	New Liskeard
Hefferon, Dennis C.	Downsview	Niagara, Regional	
Henderson, Mrs. D. P.	Sault Ste. Marie	Municipality of (2)	St. Catharines
Henderson, L.	Duntroon	Niagara Falls, City of	Niagara Falls
Hill, Elwin	Winchester	Niagara-on-the-Lake	
Housing & Urban		Concerned Citizens Group	Niagara-on-the-Lake
Development Association		Nori, Gerald E., Q.C.	Sault Ste. Marie
of Canada	Toronto	North Jarvis Community	
Huron, County of	Goderich	Association	Toronto
Janisch, Mr. & Mrs. H. N.	Nova Scotia	North York, Mayor of	Willowdale
Jennings, W. S.	Niagara-on-the-Lake	Oakville, Corporation of the	
Johnston, Mrs. A. M.	Toronto	Town of	Oakville
Joselin, P. E.	Niagara Falls	Oikos Associates	Waterloo
Keefe, Mr. & Mrs. A. J.	Toronto	Olmsted, James D.	Hamilton
Keeler, Nellie	St. Catharines	Ontario Association of	
King, Township of	King	Architects	Toronto
Kingston, Corporation of the		Ontario Conservation	
City of	Kingston	Authority	Toronto
Kingston, Mayor of	Kingston	Ontario Property Owners'	
Kirkland Lake, Corporation		Association	Toronto
of the Town of	Kirkland Lake	Oshawa, City of	Oshawa
Kruger, John P.	West Hill	Ottawa, Corporation of the	
Larder Lake, Corporation of		City of	Ottawa
the Township of	Larder Lake	Palmer, Professor J.	London
Little, W. S.	Bracebridge	Parker, Mrs. D.	Barrie
London, City of	London	Parkin-McBride,	
Long, Norman W.	Niagara-on-the-Lake	Mrs. W. E. (2)	Haley's Station
Longhurst, Gordon	Utterson, Muskoka	Peleshok, Tony	Oshawa
Longhurst, Milton	Windermere	Plewes, J.	Carp
Madawaska Valley		Popofsky, Mr. & Mrs. T.	Toronto
Regional Tourist Council	Ottawa	Property Owners' Association	Bayview Village Area
Maddox, W.	Thorndale	Propp, Mrs. N.	Pontypool
Mannell, L. S.	Oakville	Ramsay, Peter R.,	New Liskeard
Manzig, Professor J. G. W.	Windsor	Richards, J. L. &	
Martin, Dr. T. W.	Toronto	Associates Ltd.	Ottawa
Martin, Whitney L.	Bancroft	Riches, C.	St. Catharines
Martindale, John	Jordan	Robertson, Mrs. R. S.	West Hill
Mason, Mrs. Anne	London	Robinson, B. R.	Goderich
Mayhew, George E. (2)	Fort Frances	Robinson, L. Grieve	Stayner
Mayo, Mrs. A. E.	Hamilton	Robinson, Mrs. R. B.	St. Catharines
McArthur, W.	Gormley	Roe, John R.	Kitchener
McCall, Mr. & Mrs. N.	St. Catharines	Rubin, Ken	Ottawa
McDonald, Rev. H.	Ingersoll	Rudd, Mr. D. S.	London
McDougald, James D.	Brantford	Ruse, Edward	Toronto
McGarry, Township of	Virginiatown	St. Catharines, City of	St. Catharines
McLaughlin Associates	Mississauga	Sanderson, Morris C.	Mt. Albert
McWilliams, Georgia	Beaverton	Save The Lakeshore	
		Association	Burlington

Sault Ste. Marie, Corporation of the City of	Sault Ste. Marie	Thomson, W. E.	Toronto
Sault Ste. Marie District Roman Catholic Separate School Board (2)	Sault Ste. Marie	Thunder Bay Citizens Association	Thunder Bay
Scarborough, Corporation of the Borough of	Scarborough	Thurlow, Township of	Cannifton
Scheith, Mr. & Mrs. K.	Toronto	Tisdale, Township of	South Porcupine
Schiratti, Mr. & Mrs. and Others	Sault Ste. Marie	Toronto Christian Resources Centre	Toronto
Schekter, B. B., Q.C.	Hamilton	Tytler, D.	Don Mills
Sims, Wm. K., A.M.C.T.	Burlington	Urban Development Institute	Don Mills
Sinasse, Monica	Amherstburg	Veale, Wm.	Beaverton
Skura, Ed	St. Catharines	Vigers, E. J.	Mississauga
Smith, D. A.	Thunder Bay	Wallaceburg, The Town of	Wallaceburg
Smith, John Caulfield	Oakville	Warren, Walter	Newmarket
South Eglinton Ratepayers' Association	Toronto	Welland, Corporation of the City of	Welland
South Mississauga Community Association, Council of	Mississauga	Wentworth, County of	Hamilton
Stacy, Donald P.	Mississauga	Wheeler, George	Toronto
Stein, Professor Leslie A.	Toronto	Wiesman, B.	Vancouver
Stewart, M.	Forest	Wilson, N.	Warsaw
Stollard, A. E.	Toronto	Wilson, Mrs. S. P.	Toronto
Stonehouse, J. M.	St. Catharines	Winch, Melvin S.	Windsor
Strathroy, Town of	Strathroy	Windsor, City of	Windsor
Sudbury, City of	Sudbury	Wolf, Herbert	Port Credit
Sudbury District Municipal Association	Sudbury	Women's Canadian Historical Society	Toronto
Suutari, R. K.	Mississauga	Woodbine Community Association	Toronto
Swansea Area Ratepayers' Association	Toronto	Wright, Norma G.	Hamilton
Tecumseh Area Residents Association	Mississauga	York, Borough of	York
Thompson, D.	Thunder Bay	York Downs Community Park Association	Downsview
		York Federation of Ratepayers' Associations	Weston
		York, Regional Municipality of	Newmarket
		York University Law Librarians	Downsview

APPENDIX C

Persons appearing before the Committee

Date	Person	Agency represented
19 July, 1972 Toronto	J. A. Kennedy, Q.C. Chairman	Ontario Municipal Board
23 Aug., 1972 Toronto	W. K. Sims, Clerk D. Farmer, Treasurer	Town of Burlington " "
24 Aug., 1972 Toronto	W. Wronski, Planning Commissioner, Municipality of Metropolitan Toronto	—
	Prof. Dennis Hefferon, University of Toronto	—
	C. T. C. Armstrong, Chief Administrative Officer, City of St. Catharines	—
	J. B. Lawson, Q.C., Chairman	Assessment Review Court
28 Aug. 1972 Victoria, B.C.	W. K. Smith, Deputy Minister of Municipal Affairs	Province of British Columbia
	Don South Planning Director	" "
	G. E. Whelen, Research Officer	" "
29 Aug. 1972 Vancouver, B.C.	W. T. Lane Municipal Solicitor	Township of Richmond, B.C.
	Harry Lash Director of Planning	Greater Vancouver Regional District
	D. Purdie	Department of Social Planning and Community Development, Vancouver
	C. S. G. McKelvey Executive Director	Union of British Columbia Municipalities
	Ed Chalkman	" "
	Prof. Brahm Weisman Acting Head	School of Planning University of British Columbia
	Melvin J. Shelley Municipal Manager	District Municipality of Burnaby, B.C.
	H. B. Karras Deputy Municipal Treasurer	" "
	Victor S. G. Lewis President	BACM Development Corporation Ltd.
	V. Parker, Regional Manager	" "
30 Aug. 1972 Winnipeg, Man.	L. D. Mitchell, Q.C., Chairman	Manitoba Municipal Board
	John Acthim Administrative Secretary	" "
	R. L. McDonald Deputy Minister of Municipal Affairs	Province of Manitoba
	Frank Johnston, M.P.P. Municipal Affairs Critic for official opposition party	Progressive Conservative Party Manitoba Legislature.
	John Whiting Planning Director	Province of Manitoba
	Abe Yanofsky President	Manitoba Association of Urban Municipalities

31 Aug. 1972 Winnipeg, Man.	Mayor S. Juba Duncan Lennox, City Solicitor Reeve J. S. Sigurdson	City of Winnipeg " "
14 Sept. 1972 Toronto	Dr. E. G. Faludi Town Planning Consultant	—
19 Sept. 1972 Toronto	J. C. McRuer, Q.C.	—
20 Sept. 1972 Toronto	A. Jarrett Chartered Accountant J. T. Weir, Q.C.	—
21 Sept. 1972 Toronto	R. W. Macaulay, Q.C.	—
26 Sept. 1972 Toronto	John Bousfield Planning Consultant E. W. Assaly, Chairman P. Stevens, Exec. Sec. H. E. Shipp, H. Freure E. Calb S. Rumm David B. Greenspan Barrister & Solicitor	— HUDAC (Housing and Urban Development Association of Canada) " " " " " "
27 Sept. 1972 Toronto	Controller H. Turkstra City of Hamilton Roy Brigham Past President D. J. Johnson President Mayor R. White Mayor T. Davidson Mayor W. Dennison Mayor E. A. Horton Walter Manthorpe Consultant	— Federation of East York Ratepayers' & Tenants Association Metropolitan Toronto Executive Committee " " " "
28 Sept. 1972 Toronto	A. M. Campbell Chairman Municipality of Metropolitan Toronto Eric Hardy Consultant W. E. Thomson Planning Director City of Kitchener	— — President of 4 Chapters of Town Planning Institute of Canada
2. Oct. 1972 Thunder Bay	Mayor S. Laskin S. Splawski, Treasurer E. C. Reid, City Admin. D. B. Morris, City Clerk B. McCormack, Development Officer Reeve John Cooke Shuniah Township Roy Nottingham President David Hughes Vice President Alan Nelson	City of Thunder Bay " " " " " " " " Northwestern Ontario Municipal Association Thunder Bay Citizen's Assoc'n. " " " "

3 Oct. 1972 Sault Ste. Marie	Vice President	—
	Mr. Pelletier	City of Sault Ste. Marie
	Mayor R. A. Irwin	" "
	Alderman F. Manzo	" "
	D. Evans, City Admin.	" "
	Miss L. Staples, City Solicitor	" "
	F. Konkin, City Treasurer	" "
	John Bain, Planning Director	" "
	R. Soltys	Sault Ste. Marie District
	Business Administrator	Roman Catholic Separate
4 Oct. 1972 Sudbury	D. Kreps	School Board
	Controller of Plant	—
	Mrs. J. W. Mitchell	Sudbury District Municipal Association
	Mayor M. Solski	City of Sudbury
	Town of Coniston	" "
	Deputy Mayor Murray Davidson	Hanmer Farmer's Club
	R. J. Rooks, City Treasurer	" "
	Wm. Auger, President	—
	Mrs. Odile Keohane, Secretary	City of London
	Mrs. Myrna A. Fenton	" "
11 Oct. 1972 London, Ont.	McKellar, Ont.	" "
	Controller Blake	" "
	Alderman Grant	" "
	Dennis Date, Deputy	" "
	Finance Commissioner	—
	Don Guard, Planning	City of St. Thomas
	Commissioner	" "
	Andrew McKenzie, O.L.S.	" "
	Woodstock	—
	Mayor E. Rice	—
12 Oct. 1972 Niagara Falls	R. A. Barrett, City Clerk	City of Niagara Falls
	W. K. McKay, City Solicitor	" "
	S. Harper	City of St. Catharines
	London	" "
	Prof. John Palmer	" "
	University of Western Ontario	Regional Municipality of Niagara
	J. L. Collinson, City Clerk	" "
	Councillor Mrs. Bearss	" "
	Mayor M. A. Chown	" "
	C. T. Armstrong, City Admin.	" "
	Councillor H. Nash	City of Welland
	John E. Campbell, Chairman	" "
	J. Reid, Chairman, Planning and	" "
	Development Committee	" "
	Mr. Hatch, Vice-Chairman,	" "
	Finance Committee	" "
	Mr. Buchanan, Chairman	" "
	Finance Committee	" "
	A. Greaves, Planning Commissioner	" "
	Mayor A. Pietz	City of Welland
	Councillor G. Stranges	" "
	Councillor G. Pearson	" "
	Councillor P. Pietz	" "
	D. G. Barrett, City Clerk	" "
	Mr. Sweezy, City Solicitor	" "
	V. Herschel, Planner	" "
	F. A. Branscombe	—

16 Oct. 1972 Ottawa	W. Sam Jennings, Co-Chairman Geo. Howse, Co-Chairman D. M. Coolican, Chairman J. H. Lowther, Commissioner of Finance D. Hambling, City Solicitor Reeve A. S. Haydon E. M. (Mac) Fraser, Clerk Ken Rubin O. E. Dowdall, Clerk Alderman Matthews Alderman V. C. Brightman T. J. McKibbin, Clerk-Comptroller C. J. Sly Past President Eric Robinson, President D. D. Diplock, Q.C. D. Freeman, Chairman Mr. Fredericks, Secretary Ellen Adams Prof. D. Nowlan J. Sopinka C. E. Onley, Q.C., Subsection Chairman	Concerned Citizens Group, Niagara-on-the-Lake Regional Municipality of Ottawa-Carleton City of Ottawa Township of Nepean County of Renfrew — Township of Goulbourn City of Kingston " " " " " " Federation of Citizens' Associations, Ottawa-Carleton — CORRA (Confederation of Resident and Ratepayer Associations) " "
	Edward Oakes Regional Solicitor Joseph S. Tulley, President Geoffrey Fryer Professor Leslie A. Stein Faculty of Law University of Toronto Mrs. F. E. Burke, President Mrs. Vickers Co-chairmen Mrs. Janet Dewan Planning Committee John P. Kruger J. A. Kennedy, Q.C. Chairman S. G. M. Grange Controller Karl Mallette Borough of Scarborough Mayor F. Wansbrough John Steel, City Manager J. E. Watson, City Solicitor	The Advocates Society Municipal Law Subsection Canadian Bar Association (Ontario Branch) Regional Municipality of York Association of Ontario Land Economists — Association of Women Electors of Metropolitan Toronto — Ontario Municipal Board Law Society of Upper Canada — City of Windsor " " " " " "
17 Oct. 1972 Toronto		
18 Oct. 1972 Toronto		
19 Oct. 1972 Toronto		
20 Oct. 1972 Toronto		

APPENDIX 'D'

EXCERPTS FROM VARIOUS STATUTES

THE ONTARIO MUNICIPAL BOARD ACT

Section 42

The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. R.S.O. 1970, c. 323, s. 42.

Section 53 (1) (f)

to direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Board to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite;

Section 62

The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient. R.S.O. 1970, c. 323, s. 62.

Section 63 (1)

Where under any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incurring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act.

Section 64 (1)

Notwithstanding the provisions of any general or special Act, a municipality shall not,

- (a) authorize; or
 - (b) exercise any of its powers to proceed with; or
 - (c) provide any moneys for,
- any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is to be,
- (d) raised in a subsequent year or years; or
 - (e) provided by the issue of debentures,
- until the approval of the Board has first been obtained.

Section 64 (8)

An application may be made by a municipality for approval by the Board of expenditures and the borrowing of money and the issuing of debentures and, where necessary, for an order dispensing with a vote of the electors under section 63 for a class or classes of work without specifying any particular work, and the Board may dismiss the application or may approve part of all thereof, provided that the municipality shall not make any commitment for or do any act to commence any work to be financed under an order of the Board made on such application until the municipal treasurer has certified that funds can be provided under such order in payment thereof.

Section 68

The Board is not required to give its approval on any application made to it under section 64, and shall not give such approval unless satisfied that the same is justified under all circumstances. R.S.O. 1970, c. 323, s. 68.

Section 95 (7)

Save as provided in this section and in sections 42 and 94,

- (a) every decision or order of the Board is final; and
- (b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1970, c. 323, s. 95.

THE PLANNING ACT

Section 35 (1)

By-laws may be passed by the councils of municipalities:

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.
2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.
3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive.
4. For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.
5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway.
6. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof.

Section 35 (9)

Subject to subsection 25, no part of any by-law passed under this section comes into force without the approval of the Municipal Board, and such approval may be for a limited period of time only, and the Board may extend such period from time to time upon application made to it for such purpose.

Section 35 (10)

Subject to subsection 25, no part of any by-law that repeals or amends a by-law passed under this section or a predecessor of this section and approved by the Municipal Board, except a by-law passed pursuant to an order of the Municipal Board made under subsection 22 comes into force without the approval of the Municipal Board.

Section 35 (11)

The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section.

Section 35 (12)

Except as provided in subsections 13 and 14, the Municipal Board shall, before approving any by-law passed under this section, hold a public hearing for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Municipal Board.

Section 35 (13)

The Municipal Board may direct that the notice to be given by the council shall state that anyone objecting to the by-law may, within such time from the giving of the notice as may be prescribed by the Municipal Board, file with the clerk his objection to the by-law.

Section 35 (14)

Where notice has been given under subsection 13, the Municipal Board may, when no notice of objection has been filed with the clerk within the time specified in the notice, approve the by-law without holding a public hearing and, if one or more objections have been filed with the clerk within the time specified in the notice, the

Municipal Board shall hold a public hearing unless under all the circumstances affecting the matter the Municipal Board considers the objection or, if more than one, all the objections to be insufficient to require a public hearing.

Section 35 (22)

Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section, or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

Section 35 (24)

The Lieutenant Governor in Council may make regulations prescribing the manner of giving notice, the form of the notice, the persons to whom notice shall be given and the time within which objections may be filed with the clerk of the municipality when the council proceeds under subsection 25.

Section 35 (25)

Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and no notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law thereupon comes into effect.

Section 35 (26)

Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and a notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law does not come into effect until approved by the Municipal Board.

Section 35 (27)

A certificate of the clerk of the municipality that the notice has been sent in the manner and form and to the persons prescribed by the regulations and that no notice of objection has been filed with him within the time prescribed by the regulations shall be *prima facie* evidence of the facts stated therein.

Section 35 (28)

Any by-law approved by the Municipal Board under this section shall be conclusively deemed to be in conformity with the official plan then in effect in the municipality.

Section 42 (13)

The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by sending notice of appeal by registered mail to the secretary of the Municipal Board and to the secretary-treasurer of the committee of adjustment, within fourteen days after the sending of the notice under subsection 11.

Section 44 (1)

When under this Act the approval or consent of the Minister is applied for, the Minister may, and upon application therefor shall, refer the matter to the Municipal Board unless, in his opinion, such request is not made in good faith or is frivolous or is made only for the purpose of delay and, when the Minister has referred the matter to the Municipal Board, the approval or consent, as the case may be, of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister.

THE ASSESSMENT ACT

Section 66

(1) The municipal corporation, assessment commissioner or any person assessed may apply by originating notice to the Supreme Court or to the county court of the county in which the assessment is made for the determination of any question relating to the assessment, except a question as to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum.

(2) The persons to be served with notice under this section shall be the persons assessed in respect of the property relating to the assessment, the assessment commissioner and the clerk of the municipality affected by the assessment.

(3) No originating notice shall be commenced except within the times for commencing an action or other proceeding set forth in section 67.

(4) An appeal lies to the Court of Appeal from the judgment of the Supreme Court or from the judgment of the county court.

(5) The appeal from any judgment made by the Supreme Court or by a county court on an originating notice given pursuant to this section or the hearing or argument or other proceedings thereon shall not delay the final revision of the assessment roll; but, if by the judgment of the Court of Appeal it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall cause the proper entries to be made in the assessment roll to give effect to the judgment on the originating notice or on appeal therefrom.

(6) Notwithstanding that a question of the assessment of any person is pending before the Assessment Review Court, a judge of the county court or the Ontario Municipal Board, the judgment of the Supreme Court, the county court or the Court of Appeal shall be given effect to and is binding upon the Assessment Review Court, the judge of the county court and the Ontario Municipal Board. 1960-61, c. 4, s. 12, *part, amended*.

THE MUNICIPAL ACT

Section 26

When the Minister institutes an inquiry into the structure, organization and methods of operation of one or more municipalities, he may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications made under this Part should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Municipal Board that they may be continued. R.S.O. 1970, c. 284, s. 26.



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